

## Message Text

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ACTION OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 L-03 COME-00 FEA-01 OES-03

CIAE-00 INR-07 NSAE-00 /038 W  
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R 160757Z NOV 75

FM AMEMBASSY MUSCAT

TO SECSTATE WASHDC 1629

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E.O. 11652: N/A

TAGS: EINV MU US

SUBJECT: OPIC AGREEMENT: FURTHER OMANI QUESTIONS AND OBSERVATIONS

REF: STATE 229324

1. IN PROCESS OF ATTEMPTING TO REVIVE DESULTORY NEGOTIATIONS AIMED AT CONCLUSION OF OPIC AGREEMENT WITH OMANGOV, EMBASSY HAS LEARNED OF FURTHER LINGERING DOUBTS CONCERNING DRAFT WHICH HAS BEEN BASIS FOR DISCUSSION. FONMIN HAS ASKED OPINION OF EGYPTIAN SECRETARY OF DEVELOPMENT COUNCIL, DR. SHARIF LOTFY, AND HIS ARTICULATION OF CERTAIN POINTS MUST BE ADDRESSED BEFORE SIGNATURE POSSIBLE. BY SAME TOKEN, FONMIN OFFICIALS EXPRESSED DESIRE TO REACH EARLY AGREEMENT.

2. ESSENTIAL POINTS WHICH STILL TROUBLE OMANIS ARE AS FOLLOWS:

A. ALTHOUGH TEXT DOES NOT HAVE TO SPECIFY WHAT RISKS ARE INSURED AGAINST, OMANGOV WILL NEED CLEAR STATEMENT FOR THE RECORD ON WHAT THESE ARE. SPECIFICALLY, ARE ALL TYPES OF COMMERCIAL RISKS AND DISPUTES (I.E., SHORT OF UNCOMPENSATED APPROPRIATION, SEQUESTRATION, ETC.) EXCLUDED FROM AGREEMENT? COMMENT: EMBASSY ASSUMES THIS TO BE CASE AND THAT SOME OF THESE RISKS MIGHT BE COVERED THROUGH REGULAR COMMERCIAL INSURANCE.

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B. IN REFERENCE TO ARTICLES 1 AND 2 OF THE DRAFT AGREEMENT, OMANIS WISH GREATER SPECIFICITY ON WHAT IS COVERED IN PRIOR CONSULTATION. PROPOSAL IS THAT OMANGOV WOULD HAVE RIGHT OF PRIOR REVIEW AND APPROVAL BEFORE ANY INVESTOR INSURED UNDER OPIC. THIS WOULD BE DONE ON A CASE-BY-CASE BASIS, ALTERNATIVE BEING TO EXCLUDE CERTAIN SECTORS FROM OPIC COVERAGE WHICH OBVIOUSLY WOULD BE UNDESIRABLE.

C. OMANIS BELIEVE THAT FINAL SENTENCE IN ARTICLE 3 WHICH READS, "THE ISSUING GOVERNMENT DOES, HOWEVER, RESERVE ITS RIGHTS TO ASSERT A CLAIM IN ITS SOVEREIGN CAPACITY UNDER INTERNATIONAL LAW" IS TOO GENERAL AND, IN ANY CASE, REDUNDANT WITH CLAIMS PROCEDURES PROVIDED IN ARTICLE 6 B. ACCORDINGLY, THEY WILL PRESS FOR DELETION OF SENTENCE IN ARTICLE 3.

D. ALTHOUGH NOT STATED IN A FORM AMENABLE TO READY ANSWERS, ANOTHER KNOTTY ISSUE REVOLVES AROUND OPIC'S SUCCESSION TO PROPRIETARY INTERESTS UNDER CERTAIN CIRCUMSTANCES. FOR OBVIOUS POLITICAL REASONS, OMANGOV LOATH WOULD COUNTENANCE FORMULA WHEREBY USG, EVEN INDIRECTLY THROUGH ENTITY SUCH AS OPIC, MIGHT DEVELOP EQUITY INTEREST OR CLAIM IN VITAL SECTORS OF OMANI ECONOMY, MOST PARTICULARLY PETROLEUM EXPLORATION AND DEVELOPMENT.

3. ACTION REQUESTED: MR. JON SARFF SHOULD BE PREPARED TO ADDRESS THESE ISSUES DURING HIS VISIT TO OMAN (REFTEL). EMBASSY REQUESTS THAT OPIC ONCE AGAIN REVIEW WORDING OF ARTICLE 3; IF IT IS FEASIBLE TO DELETE FINAL SENTENCE, MR. SARFF SHOULD BE AUTHORIZED TO APPROVE SUCH DELETION AT TIME OF HIS VISIT. WOLLE

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**Concepts:** AGREEMENTS, NEGOTIATIONS  
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